

AMENDED IN ASSEMBLY JANUARY 24, 2008

AMENDED IN ASSEMBLY JANUARY 7, 2008

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

ASSEMBLY BILL

No. 811

Introduced by Assembly Members Levine and Beall

(Principal coauthor: Assembly Member Garcia)

(Coauthors: Assembly Members Huffman, Krekorian, and Leno)

February 22, 2007

An act to amend Sections 5898.12, 5898.20, 5898.22, and 5898.30 of, and to add Sections 5898.14 and 5898.21 to, the Streets and Highways Code, relating to contractual assessments.

LEGISLATIVE COUNSEL’S DIGEST

AB 811, as amended, Levine. Contractual assessments: energy efficiency improvements.

Existing law authorizes the legislative body of any city, *as defined*, to determine that it would be convenient and advantageous to designate an area within which authorized city officials and free and willing property owners may enter into contractual assessments and make arrangements to finance public improvements to specified lots or parcels under certain circumstances. Existing law requires the legislative body to make these determinations by adopting a resolution indicating its intention to do so and requires the resolution to include certain information, including, but not limited to, identification of the kinds of public works that may be financed, a description of the boundaries of the area within which contractual assessments may be entered into, and a description of the proposed arrangements for financing the program. Existing law also directs an appropriate city official to prepare a report

to include, among other things, the terms and conditions that would be agreed to by a property owner within the contractual assessment area and the city and identification of the types of facilities that may be financed through the use of contractual assessments.

This bill would additionally authorize a legislative body of any city to determine that it would be in the public interest to designate an area within which authorized city officials and free and willing property owners may enter into contractual assessments to finance *the installation of distributed generation renewable energy sources or energy efficiency improvements that are permanently fixed to real property*, as specified. The bill would require the resolution of intention to include the kinds of *distributed generation renewable energy sources or energy efficiency improvements*—~~which that~~ may be financed as well as a statement specifying that it is in the public interest to finance those *distributed generation renewable energy sources or energy efficiency improvements*. The bill would further require the report to include the types of *distributed generation renewable energy sources or energy efficiency improvements*—~~which that~~ may be financed through the use of contractual assessments. The bill would authorize a property owner, upon written consent of an authorized city official, to purchase directly the related equipment and materials for the *distributed generation renewable energy sources or energy efficiency improvements* and to contract directly for ~~the those sources or improvements on the property owner's real property~~. The bill would make findings and a declaration in this regard.

Vote: majority. Appropriation: no. Fiscal committee: ~~yes~~-no. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 5898.12 of the Streets and Highways
- 2 Code is amended to read:
- 3 5898.12. (a) It is the intent of the Legislature that this chapter
- 4 should be used to finance public improvements to lots or parcels
- 5 which are developed and where the costs and time delays involved
- 6 in creating an assessment district pursuant to other provisions of
- 7 this division or any other law would be prohibitively large relative
- 8 to the cost of the public improvements to be financed.
- 9 (b) It is also the intent of the Legislature that this chapter should
- 10 be used to finance *the installation of distributed generation*

1 *renewable energy sources or energy efficiency improvements that*
2 *are permanently fixed to residential, commercial, industrial, and*
3 *or other real property.*

4 (c) This chapter shall not be used to finance facilities for parcels
5 which are undergoing development.

6 (d) *This chapter shall not be used to finance the purchase or*
7 *installation of appliances that are not permanently fixed to*
8 *residential, commercial, industrial, or other real property.*

9 ~~(d)~~

10 (e) Assessments may be levied pursuant to this chapter only
11 with the free and willing consent of the owner of each lot or parcel
12 on which an assessment is levied at the time the assessment is
13 levied.

14 SEC. 2. Section 5898.14 is added to the Streets and Highways
15 Code, to read:

16 5898.14. (a) The Legislature finds all of the following:

17 (1) Energy conservation efforts, including the promotion of
18 energy efficiency improvements to residential, commercial,
19 industrial, ~~and or~~ other real property are necessary to address the
20 issue of global climate change.

21 (2) The upfront cost of making residential, commercial,
22 industrial, ~~and or~~ other real property more energy efficient ~~by~~
23 ~~replacing inefficient appliances, equipment, and building materials~~
24 ~~or by installing renewable energy sources, such as solar energy~~
25 ~~panels,~~ prevents many property owners from making those
26 improvements. To make those improvements more affordable and
27 to promote the installation of those improvements, it is necessary
28 to authorize an alternative procedure for authorizing assessments
29 to finance the cost of energy efficiency improvements.

30 (b) The Legislature declares that a public purpose will be served
31 by a contractual assessment program that provides the legislative
32 body of any city with the authority to finance *the installation of*
33 *distributed generation renewable energy sources and energy*
34 *efficiency improvements that are permanently fixed to residential,*
35 *commercial, industrial, and or other real property.*

36 SEC. 3. Section 5898.20 of the Streets and Highways Code is
37 amended to read:

38 5898.20. (a) (1) The legislative body of any city may
39 determine that it would be convenient and advantageous to
40 designate an area within the city, which may encompass the entire

1 city or a lesser portion, within which authorized city officials and
2 property owners may enter into contractual assessments for public
3 improvements and to make financing arrangements pursuant to
4 this chapter.

5 (2) The legislative body of any city may also determine that it
6 would be convenient, advantageous, and in the public interest to
7 designate an area within the city, which may encompass the entire
8 city or a lesser portion, within which authorized city officials and
9 property owners may enter into contractual assessments to finance
10 *the installation of distributed generation renewable energy sources*
11 *or energy efficiency improvements that are permanently fixed to*
12 *real property* pursuant to this chapter.

13 (b) The legislative body shall make these determinations by
14 adopting a resolution indicating its intention to do so. The
15 resolution of intention shall include a statement that the city
16 proposes to make contractual assessment financing available to
17 property owners, shall identify the kinds of public works,
18 *distributed generation renewable energy sources*, or energy
19 efficiency improvements—~~which that~~ may be financed, shall
20 describe the boundaries of the area within which contractual
21 assessments may be entered into, and shall briefly describe the
22 proposed arrangements for financing the program. The resolution
23 of intention shall state it is in the public interest to finance *the*
24 *installation of distributed generation renewable energy sources*
25 *or energy efficiency improvements* pursuant to paragraph (2) of
26 subdivision (a), if applicable. The resolution shall state that a public
27 hearing should be held at which interested persons may object to
28 or inquire about the proposed program or any of its particulars,
29 and shall state the time and place of the hearing. The resolution
30 shall direct an appropriate city official to prepare a report pursuant
31 to Section 5898.22.

32 ~~(e) For purposes of this chapter, “energy efficiency~~
33 ~~improvements” includes the installation of distributed generation~~
34 ~~renewable energy sources.~~

35 (c) As used in this chapter, each of the following terms has the
36 following meaning:

37 (1) “City” has the same meaning as defined in Section 5005.

38 (2) “Legislative body” has the same meaning as defined in
39 Section 5006.

SEC. 4. Section 5898.21 is added to the Streets and Highways Code, to read:

5898.21. Notwithstanding any other provision of this chapter, upon the written consent of an authorized city official, the proposed arrangements for financing the program pertaining to *the installation of distributed generation renewable energy sources or energy efficiency improvements that are permanently fixed to real property* may authorize the property owner to purchase directly the related equipment and materials for the *installation of distributed generation renewable energy sources or energy efficiency improvements* and to contract directly for the *installation of distributed generation renewable energy sources or energy efficiency improvements*—~~on~~ *that are permanently fixed to the property owner's residential, commercial, industrial, and or other real property.*

SEC. 5. Section 5898.22 of the Streets and Highways Code is amended to read:

5898.22. The report shall contain all of the following:

(a) A map showing the boundaries of the territory within which contractual assessments are proposed to be offered.

(b) A draft contract specifying the terms and conditions that would be agreed to by a property owner within the contractual assessment area and the city.

(c) A statement of city policies concerning contractual assessments including all of the following:

(1) Identification of types of facilities, *distributed generation renewable energy sources*, or energy efficiency improvements ~~which~~ *that* may be financed through the use of contractual assessments.

(2) Identification of a city official authorized to enter into contractual assessments on behalf of the city.

(3) A maximum aggregate dollar amount of contractual assessments.

(4) A method for setting requests from property owners for financing through contractual assessments in priority order in the event that requests appear likely to exceed the authorization amount.

(d) A plan for raising a capital amount required to pay for work performed pursuant to contractual assessments. The plan may include amounts to be advanced by the city through funds available

1 to it from any source. The plan may include the sale of a bond or
2 bonds or other financing relationship pursuant to Section 5898.28.
3 The plan shall include a statement of or method for determining
4 the interest rate and time period during which contracting property
5 owners would pay any assessment. The plan shall provide for any
6 reserve fund or funds. The plan shall provide for the apportionment
7 of all or any portion of the costs incidental to financing,
8 administration, and collection of the contractual assessment
9 program among the consenting property owners and the city.

10 SEC. 6. Section 5898.30 of the Streets and Highways Code is
11 amended to read:

12 5898.30. Assessments levied pursuant to this chapter, and the
13 interest and any penalties thereon shall constitute a lien against
14 the lots and parcels of land on which they are made, until they are
15 paid. Division 10 (commencing with Section 8500) applies to the
16 levy and collection of assessments levied pursuant to this chapter,
17 insofar as those provisions are not in conflict with the provisions
18 of this chapter, including, but not limited to, the collection of
19 assessments in the same manner and at the same time as the general
20 taxes of the city on real property are payable and any penalties and
21 remedies and lien priorities in the event of delinquency and default.